

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. ) Case No. 4:11 CR 246 CDP-19  
 )  
 CURTIS COLE(19), )  
 )  
 Defendant. )

This matter is before the Court on defendant Curtis Cole’s motion to dismiss for prosecutorial delay pursuant to Rule 48(b), motion to suppress electronic surveillance, and motion for early disclosure of Jencks Act material and the government’s witness list.<sup>1</sup> As with the other pretrial motions in this case, these motions were referred to United States Magistrate Judge Frederick R. Buckles under 28 U.S.C. § 636(b). Judge Buckles received briefs and held a hearing on the motions. He then filed his Report and Recommendation recommending that the motion to dismiss be denied, and that the motion to suppress be denied as moot. Judge Buckles also entered an order denying the motion for early disclosure of Jencks Act Material and the government’s witness list. Defendant Cole has filed

<sup>1</sup>Defendant Cole has also filed a motion for severance. It is dealt with in a separate order.


objections to the recommendation on the motion to dismiss and to the discovery order.

I have reviewed Judge Buckles' ruling on the discovery motion under the standards of Rule 59(b), Fed. R. Crim. P., and I conclude that his order is not contrary to law or clearly erroneous. As discussed at the final pretrial conference held earlier this week, the government has exceeded its obligations under the Jencks Act. I have conducted a *de novo* review of the motion to dismiss, including reviewing all briefs. I conclude that Judge Buckles' findings and conclusions are entirely proper, and I will therefore adopt them as my own. Accordingly,

**IT IS HEREBY ORDERED** that the Report and Recommendation of the United States Magistrate Judge [#1003] is **SUSTAINED, ADOPTED, and INCORPORATED** herein.

**IT IS FURTHER ORDERED** that defendant Curtis Cole's motion to dismiss for prosecutorial delay [#911] is denied, and his motion to suppress electronic surveillance [#913] is denied as moot.

**IT IS FURTHER ORDERED** that defendant Curtis Cole's objection to the denial of his Motion for Early Disclosure of Jencks Act Materials and the Government's Witness List [#1064] is overruled.

  
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CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE

Dated this 12th day of October, 2012.